

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Alexander et al. Art Unit: 3737
Appl. No: 10/764,010 Examiner: Jonathan Cwern
File Date: January 22, 2004 Docket No.: 3104/109
(previously 6750-0007.02
SU98-U01.US1)
Customer No.: 75059 Conf. No.: 8938
Invention: Assessing the Condition of a Joint and Devising Treatment

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Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

**TERMINAL DISCLAIMER TO OBVIATE
A DOUBLE PATENTING REJECTION (37 C.F.R. § 1.321(d))**

Identification of Person(s) Making This Disclaimer

I, Karen A. Buchanan, represent that I am the attorney of record.

EXTENT OF DISCLAIMANT'S INTEREST

The extent of the interest in this invention that the disclaimant owns is in the whole of this invention.

DISCLAIMER

(Obviousness-Type Double Patenting Rejection Over A Patent)

Petitioner hereby disclaims, except as provided below, the terminal part of any patent granted on the instant application, which would extend beyond the expiration date of US Patent No. 7,184,814, issued on February 27, 2007, as shortened by any terminal disclaimer, and US Patent No. 7,239,908, issued on July 3, 2007, as shortened by any terminal disclaimer. Petitioner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the above-listed patents are commonly owned. This agreement

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Terminal Disclaimer Dated October 10, 2008
Reply to Office Action Dated April 10, 2008

runs with any patent granted on the instant application and is binding upon the grantee, its successors, or assigns.

In making the above disclaimer, the disclaimant does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. Sections 154 to 156 and 173 of the patents forming the basis of the double patenting rejection, namely, US Patent No. 7,184,814 and US Patent No. 7,239,908, in the event that one or both of the patents later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. Section 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to expiration of its full statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

FEE PAYMENT

Applicants request that deposit account number 19-4972 be charged for any fees that may be required for the timely entry of this terminal disclaimer.

Date: October 10, 2008

Respectfully submitted,

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